

**Unofficial Draft Copy**

As of: July 26, 2018 (9:28am)

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Local Government Interim Committee

A Bill for an Act entitled: "An Act allowing emergency care providers to be involved in community-integrated health care services under the regulation of the board of medical examiners; updating terminology; extending rulemaking authority; allowing department of public health and human services to offer guidance to ambulance services and nontransporting medical units regarding options for community-integrated health care; amending sections 2-15-1731, 7-33-4510, 7-34-102, 37-3-102, 37-3-203, 37-3-303, 37-20-303, 37-27-104, 39-71-118, 45-5-214, 46-4-114, 50-6-101, 50-6-103, 50-6-105, 50-6-201, 50-6-202, 50-6-203, 50-6-206, 50-6-301, 50-6-302, 50-6-323, 50-6-506, 50-16-701, 61-2-502, 61-2-503, and 61-2-504, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 2-15-1731, MCA, is amended to read:

**"2-15-1731. Board of medical examiners.** (1) There is a Montana state board of medical examiners.

(2) The board consists of 13 members appointed by the governor with the consent of the senate. Appointments made when the legislature is not in session may be confirmed at the next session.

(3) The members are:

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(a) five members having the degree of doctor of medicine, including one member with experience in emergency medicine;

(b) one member having the degree of doctor of osteopathy;

(c) one member who is a licensed podiatrist;

(d) one member who is a licensed nutritionist;

(e) one member who is a licensed physician assistant;

(f) one member who is a licensed acupuncturist;

(g) one member who is a volunteer emergency ~~medical technician~~ care provider, as defined in ~~50-6-202~~ 37-3-102; and

(h) two members of the general public who are not medical practitioners.

(4) (a) The members having the degree of doctor of medicine may not be from the same county.

(b) The volunteer emergency ~~medical technician~~ care provider must have a demonstrated interest in and knowledge of state and national issues involving emergency medical service and community-integrated health care.

(c) Each member must be a citizen of the United States.

(d) Each member, except for public members, must have been licensed and must have practiced medicine, acupuncture, emergency medical care, or dietetics-nutrition in this state for at least 5 years and must have been a resident of this state for at least 5 years.

(5) Members shall serve staggered 4-year terms. A term begins on September 1 of each year of appointment. A member may be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

{*Internal References to 2-15-1731:*

2-15-1841 x 37-3-102 a 37-6-101 x 37-20-401x  
50-6-202 a 50-6-302 a 50-46-327 x 61-2-502 a }

**Section 2.** Section 7-33-4510, MCA, is amended to read:

**"7-33-4510. Workers' compensation for volunteer firefighters -- notification if coverage not provided -- definitions.** (1) An employer may provide workers' compensation coverage as provided in Title 39, chapter 71, to any volunteer firefighter who is listed on a roster of service.

(2) An employer may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in Title 39, chapter 71.

(3) If an employer provides workers' compensation coverage as provided in this section, the employer may, upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and recorder in the county in which the employer is located and update the roster of service monthly if necessary to report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original and replace it with updates whenever necessary. The employer shall maintain the roster of service with the effective date of membership for each volunteer firefighter.

(4) If an employer does not provide workers' compensation coverage, the employer shall annually notify the employer's

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volunteer firefighters that coverage is not provided.

(5) For the purposes of this section, the following definitions apply:

(a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33, including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a volunteer rural fire control crew.

(ii) The term does not mean a governing body of a city of the first class or second class, including a city to which 7-33-4109 applies, that provides workers' compensation coverage to employees as defined in 39-71-118.

(b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card prior to performing services as a volunteer firefighter.

(c) (i) "Volunteer firefighter" means a volunteer who is on the employer's roster of service. A volunteer firefighter ~~includes~~ may include a volunteer emergency ~~medical technician~~ care provider as defined in ~~50-6-202~~ 37-3-102 who is on the roster of service. A volunteer firefighter is not required to be an active member as defined in 19-17-102.

(ii) The term does not mean an individual who is not listed on a roster of service or a member of a volunteer fire department provided for in 7-33-4109."

{Internal References to 7-33-4510:

7-6-621 x 39-71-118 a 39-71-118 a 39-71-745x}

**Section 3.** Section 7-34-102, MCA, is amended to read:

**"7-34-102. Ambulance service mill levy permitted.** Subject to 15-10-420 and in addition to all other levies authorized by law, each county, city, or town may levy an annual tax on the taxable value of all taxable property within the county, city, or town to defray the costs incurred in providing ambulance service. These costs may include workers' compensation coverage for emergency ~~medical technicians~~ care providers on volunteer duty with the ambulance service or members of a paid or volunteer nontransporting medical unit defined in 50-6-302."

{*Internal References to 7-34-102:*  
7-6-2527x}

**Section 4.** Section 37-3-102, MCA, is amended to read:

**"37-3-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "ACGME" means the accreditation council for graduate medical education.

(2) "AOA" means the American osteopathic association.

(3) "Approved internship" means an internship training program of at least 1 year in a program that either is approved for intern training by the AOA or conforms to the standards for intern training established by the ACGME or successors. However, the board may, upon investigation, approve any other internship.

(4) "Approved medical school" means a school that either is accredited by the AOA or conforms to the education standards established by the LCME or the world health organization or successors for medical schools that meet standards established by

the board by rule.

(5) "Approved residency" means a residency training program conforming to the standards for residency training established by the ACGME or successors or approved for residency training by the AOA.

(6) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(7) "Community-integrated health care" means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by board rule.

~~(7)~~(8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(8)~~(9) "Emergency care provider" or "ECP" means an emergency care provider a person licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.

~~(9)~~(10) "LCME" means the liaison committee on medical education.

~~(10)~~(11) "Medical assistant" means an unlicensed allied health care worker who functions under the supervision of a physician, physician assistant, or podiatrist in a physician's or podiatrist's office and who performs administrative and clinical tasks.

~~(11)~~(12) "Physician" means a person who holds a degree as a

doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

~~(12)~~(13) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including electronic and technological means such as telemedicine. If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

~~(13)~~(14) (a) "Telemedicine" means the practice of medicine using interactive electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine typically involves the application of secure videoconferencing or store-and-forward technology, as defined in 33-22-138.

(b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission."

{Internal References to 37-3-102:

20-5-420 x	23-3-405 x	26-2-601 x	27-6-103x
27-6-103 x	33-23-302 x	37-2-315x	37-3-303a
37-3-305x	37-20-301 x	50-1-101 x	50-5-117x
50-32-603 x	53-6-124x}		

**Section 5.** Section 37-3-203, MCA, is amended to read:

**"37-3-203. Powers and duties -- rulemaking authority. (1)**

The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, ~~as well as~~ and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. ~~The rules must be fair, impartial, and nondiscriminatory.~~ Any rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in



87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August 1 of each year and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and ~~ECPs~~ emergency care providers from other states under the terms of a mutual recognition agreement."

{Internal References to 37-3-203:

37-3-401 x 50-46-303 x 50-46-332x 87-2-803x}

**Section 6.** Section 37-3-303, MCA, is amended to read:

**"37-3-303. Practice authorized by physician's license.** A physician's license authorizes the holder to perform one or more of the acts embraced in ~~37-3-102(12)~~ 37-3-102(13) in a manner consistent with the holder's training, skill, and experience."

{*Internal References to 37-3-303: None.*}

**Section 7.** Section 37-20-303, MCA, is amended to read:

**"37-20-303. Exemptions from licensure requirement.** (1) This chapter does not prohibit or require a license as a physician assistant for the rendering of medical or medically related services if the service rendered is within the applicable scope of practice for any of the following individuals:

- (a) a physician assistant providing services in an emergency or catastrophe, as provided in 37-20-410;
- (b) a federally employed physician assistant;
- (c) a registered nurse, an advanced practice registered nurse, a licensed practical nurse, or a medication aide licensed or authorized pursuant to Title 37, chapter 8;
- (d) a student physician assistant when practicing in a hospital or clinic in which the student is training;
- (e) a physical therapist licensed pursuant to Title 37, chapter 11;
- (f) a medical assistant, as provided in 37-3-104;
- (g) an emergency ~~medical technician~~ care provider licensed pursuant to Title 50, chapter 6; or

(h) any other medical or paramedical practitioner, specialist, or medical assistant, technician, or aide when licensed or authorized pursuant to laws of this state.

(2) A licensee or other individual referred to in subsection (1) who is not a licensed physician assistant may not use the title "PA" or "PA-C" or any other word or abbreviation to indicate or induce others to believe that the individual is a physician assistant."

{Internal References to 37-20-303: None.}

**Section 8.** Section 37-27-104, MCA, is amended to read:

**"37-27-104. Exemptions.** This chapter does not limit or regulate the practice of a licensed physician, certified nurse-midwife, or licensed ~~basic or advanced emergency medical technician~~ emergency care provider. The practice of direct-entry midwifery does not constitute the practice of medicine, certified nurse-midwifery, or emergency medical care to the extent that a direct-entry midwife advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period when the pregnancy is not a high-risk pregnancy."

{Internal References to 37-27-104: None.}

**Section 9.** Section 39-71-118, MCA, is amended to read:

**"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency ~~medical technician~~ care provider defined -- election of coverage.** (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community

college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) subject to subsection (11), a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the



person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the

amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less

than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in

39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

- (i) nonresident employees are hired in Montana;
- (ii) nonresident employees' wages are paid in Montana;
- (iii) nonresident employees are supervised in Montana; and
- (iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency ~~medical technician~~ care provider who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

(b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency ~~medical~~

~~technicians~~ care providers for premium and weekly benefit purposes based on the number of volunteer hours of each emergency ~~medical-technician~~ care provider, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency ~~medical-technician~~ care provider pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency ~~medical-technician~~ care provider, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency ~~medical-technician~~ care provider who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers'

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compensation coverage for its volunteer emergency ~~medical technicians~~ care providers under the provisions of this section shall annually notify its volunteer emergency ~~medical technicians~~ care providers that coverage is not provided.

(f) (i) The term "volunteer emergency ~~medical technician~~ care provider" means a person who ~~has received a certificate issued~~ is licensed by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency ~~medical technician~~ care provider who serves an employer as defined in 7-33-4510.

(g) The term "volunteer hours" means the time spent by a volunteer emergency ~~medical technician~~ care provider in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

(11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context."

{*Internal References to 39-71-118:*

7-33-4510 a	39-71-117x	39-71-123 x	39-71-401x
39-71-442 x	39-71-744 x	39-71-4003 x	50-71-112x
50-71-204x}			

**Section 10.** Section 45-5-214, MCA, is amended to read:

**"45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with:

(a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession and occupation:

(i) during or after an arrest for a criminal offense;

(ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or

(iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, state youth correctional facility, health care facility, or shelter care facility; or

(b) an emergency responder.

(2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

(3) The youth court has jurisdiction of any violation of this section by a minor.

(4) As used in this section, the following definitions apply:

(a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency ~~medical technician~~ care provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

{Internal References to 45-5-214: None.}

**Section 11.** Section 46-4-114, MCA, is amended to read:

**"46-4-114. Reporting fetal deaths.** A licensed nurse, a midwife, a physician assistant, an emergency ~~medical technician~~ care provider, a birthing assistant, or any other person who assists in the delivery that occurs outside a licensed medical facility of a fetus that is believed or declared to be dead shall report the death by the earliest means available to the coroner of the county in which the death occurred."

{Internal References to 46-4-114: None.}

**Section 12.** Section 50-6-101, MCA, is amended to read:



**"50-6-101. Legislative purpose.** (1) The public welfare requires the providing of assistance and encouragement for the development of ~~a comprehensive~~ an emergency ~~medical services~~ program care system for Montanans who each year are dying and suffering permanent disabilities needlessly because of inadequate emergency medical services. The repeated loss of persons who die unnecessarily because necessary life-support personnel and equipment are not available to victims of accidents and sudden illness is a tragedy that can and must be eliminated.

(2) Community-integrated health care is necessary to improve the health of Montana citizens, prevent illness and injury, reduce the incidence of emergency calls and hospital emergency department visits made for the purpose of obtaining nonemergency, nonurgent medical care or services, and to provide community outreach, health education, and referral services within communities.

(3) The development of an emergency medical services program and community-integrated health care is in the interest of the social well-being and health and safety of the state and all its people who require emergency and community-integrated medical care."

{Internal References to 50-6-101: None.}

**Section 13.** Section 50-6-103, MCA, is amended to read:

**"50-6-103. Powers of department.** (1) The department of public health and human services is authorized to confer and cooperate with any other persons, organizations, and governmental

agencies that have an interest in the emergency medical services problems and needs program and community-integrated health care.

(2) The department is authorized to accept, receive, expend, and administer any funds that are now available or that may be donated, granted, or appropriated to the department.

(3) The department may, after consultation with the trauma care committee, the Montana committee on trauma of the American college of surgeons, the Montana hospital association, and the Montana medical association, adopt rules necessary to implement part 4 of this chapter.

(4) The department shall continually assess and, as needed, revise the functions and components that it regulates to improve the quality of emergency medical services and to ensure that the emergency medical services program adapts to the changing community-integrated health care needs of the citizens of Montana.

(5) The department shall collaborate with other components of the health care system to fully integrate the emergency medical services program into the overall health care system.

(6) As part of the collaboration under subsection (5), the department shall provide guidance to ambulance services and nontransporting medical units regarding their options to engage in community-integrated health care beyond offering emergency medical services."

*{Internal References to 50-6-103: None.}*

**Section 14.** Section 50-6-105, MCA, is amended to read:

**"50-6-105. Emergency medical care standards -- review process.** (1) The board of medical examiners shall establish patient care standards for:

(a) prehospital and interfacility emergency medical treatment and transportation; and

(b) community-integrated health care.

(2) (a) Complaints involving prehospital care, interfacility care, community-integrated health care, or the operation of an emergency medical service, as defined in 50-6-302, must be filed with the board and reviewed by a screening panel pursuant to 37-1-307.

(b) If a complaint is initially filed with the department of public health and human services, the department shall refer the complaint to the board for review by a screening panel.

(3) (a) When a complaint involves the operation or condition of an emergency medical service, the screening panel shall refer the complaint to the department for investigation as provided in 50-6-323.

(b) When a complaint involves patient care provided by an emergency ~~medical technician~~ care provider, the screening panel shall:

(i) refer the complaint to the board for investigation as provided in 37-1-308 and 50-6-203; and

(ii) forward to the department the complaint and the results of the screening panel's initial review as soon as the review is completed.

(c) When a complaint involves a combination of patient care

and emergency medical service matters, the screening panel shall refer the complaint to both the department and the board for matters that fall within the jurisdiction of each entity.

(4) For a complaint involving patient care, the board shall:

(a) immediately share with the department any information indicating:

(i) a potential violation of department rules; or

(ii) that the existing policies or practices of an emergency medical service may be jeopardizing patient care; and

(b) notify the department when:

(i) a sanction is imposed upon an emergency ~~medical technician~~ care provider; or

(ii) the complaint is resolved.

(5) For a complaint involving an emergency medical service, the department shall:

(a) immediately share with the board any information indicating:

(i) a potential violation of board rules; or

(ii) that the practices of an emergency ~~medical technician~~ care provider may be jeopardizing patient care; and

(b) notify the board when:

(i) a sanction is imposed upon an emergency medical service; or

(ii) the complaint is resolved."

{Internal References to 50-6-105:  
50-6-323 a 50-6-323a}

**Section 15.** Section 50-6-201, MCA, is amended to read:

**"50-6-201. Legislative findings -- duty of board.** (1) The legislature finds and declares ~~that prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is an important ingredient necessary for reduction of the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition and that a program for emergency medical technicians~~ care providers is required in order to provide the safest and most efficient delivery of emergency and community-integrated health care.

(2) The legislature further finds that prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is important in reducing the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition.

(3) The legislature further finds that community-integrated health care can prevent illness and injury and can help fill gaps in the state's health care system, particularly in rural communities with limited health care services and providers.

~~(2)~~(4) The board has a duty to ensure that emergency ~~medical technicians~~ care providers are properly licensed and provide proper treatment to patients in their care."

{Internal References to 50-6-201: None.}

**Section 16.** Section 50-6-202, MCA, is amended to read:

**"50-6-202. Definitions.** As used in this part, the following definitions apply:

(1) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(2) "Emergency ~~medical technician care provider~~" means a person ~~who has been specially trained in emergency care in a training program approved by the board and certified by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition~~ licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.

(3) "Volunteer emergency ~~medical technician care provider~~" means an individual who is licensed pursuant to this part and provides prehospital, interfacility, emergency medical, or community-integrated health care:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-

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integrated health care as part of the individual's job duties."

{Internal References to 50-6-202:  
2-15-1731a 7-33-4510a}

**Section 17.** Section 50-6-203, MCA, is amended to read:

**"50-6-203. Rules.** (1) The board, after consultation with the department of public health and human services and other appropriate departments, associations, and organizations, shall adopt rules of the board implementing this part, including but not limited to:

(a) training and licensure of emergency ~~medical technicians~~ care providers;

(b) the administration of drugs by emergency ~~medical technicians~~ care providers; and

(c) the handling of complaints involving patient care provided by emergency ~~medical technicians~~ care providers.

(2) The board may, by rule, establish various levels of emergency ~~medical technician~~ care provider licensure and shall specify for each level the training requirements, acts allowed, relicensure requirements, and any other requirements regarding the training, performance, or licensure of that level of emergency ~~medical technician~~ care provider that it considers necessary, subject to the provisions of 37-1-138."

{Internal References to 50-6-203:  
37-3-203 a 50-6-105a}

**Section 18.** Section 50-6-206, MCA, is amended to read:

**"50-6-206. Consent.** No An emergency ~~medical technician~~ care

provider may not be subject to civil liability for failure to obtain consent in performing acts as authorized ~~herein~~ in this part to any individual regardless of age ~~where~~ when the patient is unable to give consent and there is no other person present legally authorized to consent, provided that ~~such~~ the acts are in good faith and without knowledge of facts negating consent."

{Internal References to 50-6-206: None.}

**Section 19.** Section 50-6-301, MCA, is amended to read:

**"50-6-301. Findings.** The legislature finds and declares that:

(1) the public welfare requires the establishment of minimum uniform standards for the operation of emergency medical services;

(2) the control, inspection, and regulation of persons providing emergency medical services or community-integrated health care is necessary to prevent or eliminate improper care that may endanger the health of the public; and

(3) the regulation of emergency medical ~~care~~ services is in the interest of the social well-being and the health and safety of the state and all its people."

{Internal References to 50-6-301: None.}

**Section 20.** Section 50-6-302, MCA, is amended to read:

**"50-6-302. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Aircraft" has the meaning provided in 67-1-101. The



term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(4) "Community-integrated health care" means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by board rule.

~~(4)~~(5) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(5)~~(6) "Emergency medical service" means a prehospital or interfacility emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit that is licensed by the department to provide prehospital or interfacility emergency medical transportation or treatment services, including community-integrated health care.

~~(6)~~(7) "Nonemergency ambulance transport" means the use of

an ambulance to transport a patient between health care facilities, as defined in 50-5-101, including federal facilities, when the patient's medical condition requires special transportation considerations, supervision, or handling but does not indicate a need for medical treatment during transit or for emergency medical treatment upon arrival at the receiving health care facility.

~~(7)~~(8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

~~(8)~~(9) "Offline medical direction" means the function of a board-licensed physician or physician assistant in providing:

(a) medical oversight and supervision for an emergency medical service or an emergency ~~medical technician~~ care provider; and

(b) review of patient care techniques, emergency medical service procedures, and quality of care.

~~(9)~~(10) "Online medical direction" means the function of a board-licensed physician or physician assistant or the function of a designee of the physician or physician assistant in providing direction, advice, or orders to an emergency ~~medical technician~~ care provider for prehospital, ~~and~~ interfacility, emergency medical, or community-integrated health care as identified in a plan for offline medical direction.

~~(10)~~(11) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) ~~The~~ Unless otherwise defined by rule for community-integrated health care, the term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

~~(11)~~(12) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

~~(12)~~(13) "Volunteer emergency medical technician care provider" means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides prehospital, interfacility, emergency medical, or community-integrated health care:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual's job duties."

{Internal References to 50-6-302:

7-34-102 x 39-71-118 a 39-71-118 a 39-71-118a  
39-71-118 a 50-6-105 a 50-6-401 x 50-6-501x

50-17-102x}

**Section 21.** Section 50-6-323, MCA, is amended to read:

**"50-6-323. Powers and duties of department.** (1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) Upon referral by a screening panel pursuant to 50-6-105, the department shall review and may investigate complaints relating to the operation of any emergency medical service.

(3) In investigating a complaint, the department may review:

(a) the type and condition of equipment and procedures used by an emergency medical service to provide care at the scene ~~or~~ during prehospital or interfacility transportation, or in other out-of-hospital care settings;

(b) the condition of any vehicle or aircraft used as an ambulance;

(c) general performance by an emergency medical service; and

(d) the results of any investigation conducted by the board concerning patient care by an emergency ~~medical technician~~ care provider who was, at the time of the complaint, providing care through the emergency medical service that is the subject of a complaint under investigation by the department.

(4) Upon completion of an investigation as provided in subsection (3), the department shall take appropriate action,

including sharing information regarding complaints with the board as provided in 50-6-105 and initiating any necessary legal proceedings as authorized under this part.

(5) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for emergency medical services. Rules of the department may include but are not limited to the following:

(a) the classification and identification of specific types and levels of prehospital and interfacility medical transportation or treatment services;

(b) procedures for issuing, denying, renewing, and canceling licenses issued under this part;

(c) minimum licensing standards for each type and level of service, including requirements for personnel, offline medical direction, online medical direction, maintenance, equipment, reporting, recordkeeping, sanitation, and minimum insurance coverage as determined appropriate by the department; and

(d) other requirements necessary and appropriate to ensure the quality, safety, and proper operation and administration of emergency medical services.

(6) A rule adopted pursuant to this section ~~is not effective until:~~

~~—— (a) a public hearing has been held for review of the rule; and~~

~~—— (b) notice of the public hearing and a copy of the proposed rules have been sent to all persons licensed under 50-6-306 to conduct or operate an emergency medical service. Notice must be~~

~~sent at least 30 days prior to the date of the public hearing~~  
must comply with Title 2, chapter 4."

{*Internal References to 50-6-323:*  
50-6-105a 50-6-324x}

**Section 22.** Section 50-6-506, MCA, is amended to read:

**"50-6-506. Exemptions.** This part does not apply to the use of an AED by:

(1) a patient or the patient's caretaker if use of the AED is ordered by a physician; or

(2) a licensed health care professional, including an emergency ~~medical technician~~ care provider, whose scope of practice includes the use of an AED."

{*Internal References to 50-6-506: None.*}

**Section 23.** Section 50-16-701, MCA, is amended to read:

**"50-16-701. Definitions.** As used in this part, the following definitions apply:

(1) "Airborne infectious disease" means an infectious disease transmitted from person to person by an aerosol, including but not limited to infectious tuberculosis.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Designated officer" means the emergency services organization's representative and the alternate whose names are on record with the department as the persons responsible for notifying an emergency services provider of exposure.

(4) "Emergency services organization" means a public or private organization that provides emergency services to the public.

(5) "Emergency services provider" means a person employed by or acting as a volunteer with an emergency services organization, including but not limited to a law enforcement officer, firefighter, emergency ~~medical technician, paramedic~~ care provider, corrections officer, or ambulance service attendant.

(6) "Exposure" means the subjecting of a person to a risk of transmission of an infectious disease through the commingling of the blood or bodily fluids of the person and a patient or in another manner as defined by department rule.

(7) "Health care facility" has the meaning provided in 50-5-101 and includes a public health center as defined in 7-34-2102.

(8) "Infectious disease" means human immunodeficiency virus infection, hepatitis B, hepatitis C, hepatitis D, communicable pulmonary tuberculosis, meningococcal meningitis, and any other disease capable of being transmitted through an exposure that has been designated by department rule.

(9) "Infectious disease control officer" means the person designated by the health care facility as the person who is responsible for notifying the emergency services provider's designated officer and the department of an infectious disease as provided for in this part and by rule.

(10) "Patient" means an individual who is sick, injured,

wounded, or otherwise incapacitated or helpless."

{*Internal References to 50-16-701:  
52-2-736x*}

**Section 24.** Section 61-2-502, MCA, is amended to read:

**"61-2-502. Definitions.** As used in this part, the following definitions apply:

(1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(4) "Department" means the department of transportation provided for in 2-15-2501.

(5) "Emergency care provider" means a person licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency



medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.

~~(5)(6)~~ "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.

~~(6) "Emergency medical technician" means a person who has been specially trained in emergency care in a training program approved by the board and licensed by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition.~~

(7) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding to emergency medical calls.

(b) The term does not include a vehicle used for an individual's personal purposes.

(8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department of public health and human services rule but may not transport patients.

(9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) ~~The~~ Unless otherwise defined by rule for community-integrated health care, the term does not include an individual who is nonambulatory and who needs transportation assistance

solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(10) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(11) "Volunteer emergency ~~medical technician~~ care provider" means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides prehospital, interfacility, emergency medical, or community-integrated health care:

(a) on the days and the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual's job duties."

{Internal References to 61-2-502: None.}

**Section 25.** Section 61-2-503, MCA, is amended to read:

**"61-2-503. Emergency medical services grant program -- eligibility -- matching funds.** (1) The department shall provide competitive grants to emergency medical service providers for acquiring or leasing ambulances or emergency response vehicles or

for purchasing equipment, other than routine medical supplies,  
for any of the following purposes:

- (a) training;
- (b) communications; or
- (c) providing medical care to a patient.

(2) A licensed emergency medical service may apply for a grant if:

- (a) it has been in operation at least 12 months;
- (b) it bills for services at a level that is at least equivalent to the medicare billing level; and
- (c) a majority of its active emergency ~~medical technicians~~ care providers are volunteer emergency ~~medical technicians~~ care providers.

(3) An emergency medical service is ineligible for grant funding if it is either a private business or a public agency, as defined in 7-1-4121, and employs the majority of its emergency ~~medical technicians~~ care providers on a regular basis with a regular, hourly wage.

(4) An eligible emergency medical service applying for a grant under this section shall provide a 10% match for any grant funds received.

(5) The department shall award grants on an annual basis using the criteria contained in 61-2-504.

(6) Up to 5% of the annual appropriation for the program may be distributed for emergency purposes each year as provided in 61-2-507."

{Internal References to 61-2-503:

61-2-507x}

**Section 26.** Section 61-2-504, MCA, is amended to read:

**"61-2-504. Grant review criteria.** When evaluating grant applications, the department shall consider the following factors:

- (1) demonstrated need;
- (2) size of the geographic area covered by the emergency medical service;
- (3) distance from other emergency medical service providers in the geographic region;
- (4) distance from the closest hospital;
- (5) number of calls in the previous calendar year; and
- (6) number of volunteer emergency ~~medical technicians~~ care providers on the active call roster."

{Internal References to 61-2-504:  
61-2-503a 61-2-506x}

NEW SECTION. **Section 27. {standard} Effective date.** [This act] is effective July 1, 2019.

- END -

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